

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

NEONODE SMARTPHONE LLC.,

Plaintiff,

v.

SAMSUNG ELECTRONICS CO. LTD.

AND SAMSUNG ELECTRONICS

AMERICA, INC.,

Defendants.

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Civil Action No. 6:20-cv-00507-ADA

JURY TRIAL DEMANDED

**DECLARATION OF PHILIP J. GRAVES IN SUPPORT OF NEONODE SMARTPHONE
LLC'S OPPOSITION TO DEFENDANTS' MOTION TO STAY CASE PENDING
APPEAL OF *INTER PARTES* REVIEW FINAL WRITTEN DECISIONS**

I, Philip J. Graves, declare as follows:

1. My name is Philip J. Graves. I am a Partner with the law firm of Graves & Shaw LLP, counsel of record for plaintiff Neonode Smartphone LLC in the above-referenced action. I have personal knowledge of the matters set forth below.

2. At the case management conference held in both this case and the Apple case on October 23, 2020, Samsung's counsel requested leave to commence foreign discovery prior to the opening of general fact discovery. The Court granted leave to take foreign discovery. Similarly, Apple's counsel asked for leave to take discovery from third party Neonode, Inc. and from the sole inventor, Magnus Goertz. The Court granted leave to take this discovery as well.

3. The parties then commenced discovery on the specified subjects. In response to defendants' discovery requests, NNI and another third party, Soquel Group, produced 778 pages of responsive documents to Apple and Samsung on January 26, 2021 and January 28, 2021.

4. Apple and Samsung deposed two NNI witnesses, Ulf Martensson and Joseph Shain, concerning NNI's organizational structure, assignments and licenses concerning the '993 and '879 Patents, and the like on February 2, 2021. These depositions were taken in both the Apple and Samsung actions, and Samsung's counsel actively participated.

5. Subsequently, the parties commenced efforts to obtain discovery from Magnus Goertz, the inventor, and his then-business partner Thomas Eriksson, in Sweden. On April 19, 2021, Samsung moved for issuance of a Letter of Request pursuant to the Hague Evidence Convention, seeking documents from and depositions of Goertz and Eriksson in Sweden. The Court granted Samsung's motion on April 21, 2020. In the meantime, the Court granted similar motions that Neonode and Apple had filed in the Apple case.

6. The parties then pursued discovery of Goertz and Eriksson in the Stockholm District Court. On December 22, 2021, the Stockholm District Court issued an order rejecting the parties' discovery requests. Neonode appealed the Stockholm District Court's ruling to the Swedish Court of Appeal, which, on March 4, 2022, annulled the lower court's order and ordered that the requested discovery be permitted.

7. Apple then sought additional discovery from Neonode related to Goertz and Eriksson, in response to which Neonode produced an additional 1,108 pages of documents to Apple and Samsung on May 5, 2022.

8. The parties deposed Goertz on June 2, 2022, and Eriksson on June 3, 2022, in Stockholm, Sweden. Counsel were permitted to inquire into a broad range of topics, including the development of the technology claimed in the '879 and '993 Patents, the sales and marketing of the original N1 and N2 phones incorporating the patented technology that were sold by Neonode Sweden AB in the mid-2000s, and the license agreement for the patented technology that Samsung entered into with Neonode Sweden AB in 2005. Samsung's counsel actively participated in these depositions.

9. Exhibit 1 attached hereto is a true and correct copy of a text order entered by the Court in this action on December 11, 2020.

10. Exhibit 2 attached hereto is a true and correct copy of an order entered by the Court in the action entitled Neonode Smartphone LLC v. Apple Inc., Case No. 6:20-CV-00505-ADA ("Apple Suit"), on July 19, 2021.

11. Exhibit 3 attached hereto is a true and correct copy of the transcript of a scheduling conference held in this action and the coordinated Apple Suit on October 23, 2020.

12. Exhibit 4 attached hereto is a true and correct copy of a text order entered by the Court in this action on April 20, 2021.

13. Exhibit 5 attached hereto is a true and correct copy of a document accessible on the website of the United States Court of Appeals for the Federal Circuit, at <https://cafc.uscourts.gov/wp-content/uploads/reports-stats/appeals/AppealsFY2022.pdf>. I printed this document from the above-referenced URL on February 9, 2023.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 10, 2023, in Agoura Hills, California.

Respectfully submitted,

/s/ Philip J. Graves
Philip J. Graves